

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF ALABAMA
EASTERN DIVISION

In re:

MATTHEW SCOTT CARROLL,

Debtor.

Case No.: 21-40863-JJR13
Chapter: 13

**OBJECTION TO CONFIRMATION OF
CHAPTER 13 PLAN**

Guild Mortgage Company LLC (“Secured Creditor”), by and through undersigned counsel, hereby objects to confirmation of the Debtor's Chapter 13 Plan (the “Plan”) (Doc. No. 2) and in support thereof states:

1. Debtor's Bankruptcy Case: This case was commenced by the filing of a voluntary Chapter 13 petition on September 10, 2021 (the “Petition Date”) by Matthew Scott Carroll (the “Debtor”).

2. Collateral: Secured Creditor holds a Mortgage lien against the Debtor's real property located at 915 Ward Road, Hokes Bluff, AL 35903 (the “Property”).

3. Secured Creditor's Claim: Secured Creditor has not yet filed a proof of claim, but will do so prior to the expiration of the claims deadline.

4. Plan Treatment: Debtor's Plan fails to provide for payment of Creditor's estimated prepetition arrearage claim of \$1,885.74, listing \$0.00 in arrears. As such, Creditor's claim will not be paid alongside other secured creditors. Confirmation of the Plan should be denied until Debtor amends the Plan to properly treat Creditor's claim.

5. Pre-petition Arrearage: The Plan is not in compliance with the requirements of 11 U.S. C. § 1322(b)(3),(5) and 1325(a)(5)(A), and cannot be confirmed since it fails to

address (i)the pre-petition arrearage due to Secured Creditor; and (ii) the monthly post-petition installment payments due on Secured Creditor's mortgage claim.

6. Secured Creditor does not Consent to the Plan: Secured Creditor does not consent to the treatment of its claim as proposed by the Debtor's Plan. Accordingly, the Plan cannot be confirmed pursuant to 11 U.S.C. § 1325(a)(5)(A).

7. Attorney's Fees and Costs: Secured Creditor has incurred additional fees and costs as a result of having to file this objection.

8. Objection: Secured Creditor reserves the right to supplement and/or amend this Objection to Confirmation.

WHEREFORE, the Secured Creditor requests that the Court enter an order denying confirmation of the Debtor's Chapter 13 Plan, unless such Plan is amended to overcome the objections of Secured Creditor as stated herein, and for such other and further relief as the Court deems just and proper.

McCalla Raymer Leibert Pierce, LLC

By: /s/Jackson E. Duncan, III
 Jackson E. Duncan, III
 Alabama Bar No. 4919N67J
 Attorney for Creditor
 1544 Old Alabama Road
 Roswell, GA 30076
 Phone: 205-208-1804
 Fax: 205-208-1804
 Email: Jackson.Duncan@mccalla.com

CERTIFICATE OF SERVICE

I, Jackson E. Duncan, III, of MCCALLA RAYMER LEIBERT PIERCE, LLC, 1544 Old Alabama Road, Roswell, GA 30076-2102, certify:

That I am, and at all times hereinafter mentioned, was more than 18 years of age,

That on the date below, I served a copy of the within OBJECTION TO CONFIRMATION filed in this bankruptcy matter on the following parties at the addresses shown, by regular United States Mail, with proper postage affixed, unless another manner of service is expressly indicated:

Debtor's Attorney

John W Jennings, Jr.

Served via ECF: stacy@jenningsandmessenger.com

Trustee

Linda Baker Gore

Served via ECF: noticetrustee@ch13gadsden.com

and the following by regular U.S. Mail addressed to:

Debtor

Matthew Scott Carroll

915 Ward Road

Gadsden, AL 35903

I CERTIFY UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT.

Executed on 10/21/2021
(date)

By: /s/Jackson E. Duncan, III
Jackson E. Duncan, III
Alabama BAR NO. 4919N67J
Attorney for Creditor

McCalla Raymer Leibert Pierce, LLC
1544 Old Alabama Road
Roswell, GA 30076
205-208-1804
Jackson.Duncan@mccalla.com